

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA**

Application for Certification for the
Mirant Willow Pass Generating Station Project

Docket No. 08-AFC-6

DOCKET
08-AFC-6

DATE 9/16/2009

RECD. 9/16/2009

**FIFTH STATUS REPORT OF
MIRANT WILLOW PASS, LLC**

September 16, 2009

Lisa A. Cottle
Winston & Strawn LLP
101 California Street, Suite 3900
San Francisco, California 94111
Telephone: (415) 591-1579
Facsimile: (415) 591-1400
lcottle@winston.com

Attorneys for Mirant Willow Pass, LLC

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**FIFTH STATUS REPORT OF
MIRANT WILLOW PASS, LLC**

In accordance with the Committee Scheduling Order dated December 31, 2008, Mirant Willow Pass, LLC (“Mirant Willow Pass”) submits its fifth status report in this proceeding. On June 30, 2008, Mirant Willow Pass submitted an Application for Certification (“AFC”) for the Willow Pass Generating Station (“WPGS”), a 550 megawatt, natural gas-fired electricity generating facility to be located at a site within the existing site of the Pittsburg Power Plant in Pittsburg, California. The AFC was determined to be data adequate on October 8, 2008.

Mirant Willow Pass continues to work toward providing the information that staff has requested for its analysis in the area of Waste Management. Mirant Willow Pass requested additional time to respond to Data Requests 73 through 75, which asked for a workplan, soil vapor sampling, a revised Human Health Risk Assessment, and an Ecological Risk Screening Assessment for the project site. Mirant Willow Pass has advised staff that the previous owner of the project site remains responsible for certain environmental remediation at the site, and therefore is responsible for conducting certain sampling. Mirant Willow Pass continues to work through issues associated with this allocation of responsibility and will submit additional information to staff as those issues are resolved.

Mirant Willow Pass also is evaluating transmission issues in light of the California Independent System Operator’s release of the Phase I interconnection study for the so-called “transition cluster” of projects, which includes the WPGS. There are concerns about using the Phase I cluster study in this proceeding. The study reflects unrealistic and inaccurate assumptions regarding the amount of capacity that is likely to be added to the system by the transition cluster of projects, and regarding the timing of those additions. The study therefore does not accurately predict potential transmission impacts associated with the WPGS. Mirant Willow Pass is preparing an explanation of this problem for submission in this proceeding.

Staff has previously reported that its Preliminary Staff Assessment is delayed pending issuance of the Bay Area Air Quality Management District's Preliminary Determination of Compliance ("PDOC") for the project. The PDOC does not have a projected time frame for issuance. In light of this delay, and given that most other resource areas are close to resolution, staff has raised the possibility of issuing a staff assessment that addresses all resource areas other than those that rely on findings in the PDOC. Mirant Willow Pass does not object to this approach.

September 16, 2009

Respectfully submitted,

A handwritten signature in black ink, reading "Lisa Cottle" followed by a date "1/5/". The signature is written over a horizontal line.

Lisa A. Cottle
Winston & Strawn LLP

Attorneys for Mirant Willow Pass, LLC

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DECLARATION OF SERVICE

I, Lisa A. Cottle, declare that on September 16, 2009, I served and filed copies of the attached *Fifth Status Report of Mirant Willow Pass, LLC (Docket No. 08-AFC-6)*. The original document filed with the Docket Unit is accompanied by a copy of the most recent Proof of Service list, located at the web page for this project at <http://www.energy.ca.gov/sitingcases/willowpass/index.html>. The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

- For service to all other parties: Sent electronically to all email addresses on the Proof of Service list; and by depositing in the United States mail at San Francisco, California with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses **NOT** marked as "email preferred."

AND

- For filing with the Energy Commission: Sent an original paper copy and one electronic copy, mailed and emailed respectively, to the address below:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 08-AFC-6
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct.



Lisa A. Cottle



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

APPLICATION FOR CERTIFICATION
FOR THE **WILLOW PASS**
GENERATING STATION

Docket No. 08-AFC-6

PROOF OF SERVICE
(Revised 4/14/2009)

APPLICANT

Chuck Hicklin, Project Manager
Mirant Corporation
P.O. Box 192
Pittsburg, CA 94565
E-mail preferred
chuck.hicklin@mirant.com

Jonathan Sacks, Project Director
Steven Nickerson
Mirant Corporation
1155 Perimeter Center West
Atlanta, GA, 30338
E-mail preferred
jon.sacks@mirant.com
steve.nickerson@mirant.com

CONSULTANTS

Dale Shileikis
Kathy Rushmore
URS Corporation
221 Main Street, Suite 600
San Francisco, CA 94105-1917
E-mail preferred
Kathy_Rushmore@URSCorp.com
Dale_shileikis@URSCorp.com

COUNSEL FOR APPLICANT

Lisa Cottle
Karleen O'Connor
Winston & Strawn LLP
101 California Street
San Francisco, CA 94111-5802
E-mail preferred
lcottle@winston.com
koconnor@winston.com

INTERESTED AGENCIES

California ISO
e-recipient@caiso.com

Marc Grisham, City Manager
Garrett D. Evans
General Manager, Pittsburg Power
Company
65 Civic Avenue
Pittsburg, CA 94565
MGrisham@ci.pittsburg.ca.us
gevans@ci.pittsburg.ca.us

Greggory L. Wheatland
Ellison, Schneider & Harris
2015 H Street
Sacramento, CA 95811-3109
glw@eslawfirm.com

INTERVENORS

California Unions for Reliable Energy
("CURE")
Gloria D. Smith & Marc D. Joseph
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, California 94080
gsmith@adamsbroadwell.com
mdjoseph@adamsbroadwell.com

ENERGY COMMISSION

KAREN DOUGLAS
Chair and Presiding Member
kldougla@energy.state.ca.us

JAMES D. BOYD

Vice Chair and Associate Member
jboyd@energy.state.ca.us

Paul Kramer
Hearing Officer
pkramer@energy.state.ca.us

***Felicia Miller**
Project Manager
fmiller@energy.state.ca.us

Dick Ratliff
Staff Counsel
dratliff@energy.state.ca.us

Elena Miller
Public Adviser
publicadviser@energy.state.ca.us